

CHAPTER NO. 429

HOUSE BILL NO. 1321

By Representatives Kisber, Stulce

Substituted for: Senate Bill No. 1458

By Senators Henry, Womack

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 3, Part 12, relative to the Tennessee school bond authority.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-3-1202, is amended by adding the following language as new, appropriately designated subsections:

() "Loan agreement" means an agreement providing for the authority to loan the proceeds derived from the issuance of bonds, notes or other debt obligations pursuant to this chapter to a local government to be used to pay the cost of one (1) or more qualified zone academy projects;

() "Local government" means any county, metropolitan government, incorporated city or town, or special school district in this State;

() "Qualified zone academy project" means and includes buildings, structures, improvements and equipment for schools of any local government;

SECTION 2. Tennessee Code Annotated, Section 49-3-1205(6), is amended by adding the following language:

, obligations of the United States or its agencies under flexible repurchase agreements which are fully collateralized by obligations of the United States or obligations the timely payment of the principal of and interest on which are guaranteed by the United States, the state investment pool as provided in Tennessee Code Annotated, Section 9-4-603, and any other investment authorized by the state investment policy adopted by the State Funding Board pursuant to Section 9-4-602;

SECTION 3. Tennessee Code Annotated, Section 49-3-1205(7), is amended by adding the following language between the phrase "by such board" and "and": ";upon request by a local government, to finance qualified zone academy projects;"

SECTION 4. Tennessee Code Annotated, Section 49-3-1205(8), is amended by deleting the following:

In connection with the financing of projects for institutions or for the Tennessee student assistance corporation,

SECTION 5 Tennessee Code Annotated, Section 49-3-1206, is amended by adding the following language as new, appropriately designated subsections:

(d) (1) The authority has the power and authority to finance qualified zone academy projects for a local government under a loan agreement or agreements for the sole purpose of enabling such local government to benefit

from the issuance of qualified zone academy bonds under the provisions of Section 1397E of the Internal Revenue Code of 1986, as amended. The Department of Education, in conjunction with the authority, shall develop the application and review procedure for loans under this program and shall make recommendations to the authority as to loan applications. The authority and the Department of Education shall have such other authority as may be necessary and appropriate for the exercise of the powers and duties conferred by this part.

(2) Any local government is authorized by resolution of its governing body to enter into such loan agreement with the authority with respect to a qualified zone academy project upon such terms and conditions as may be determined by the authority and Department of Education pursuant to subsection (d)(1) above in such agreement and by the governing body of such local government, notwithstanding and without regard to the restrictions, prohibitions or requirements of any other law, whether public or private. Counties having a city or cities operating schools independent of the county or having special school districts operating schools independent of the county shall not be required to share proceeds of any loan agreement for a qualified zone academy project notwithstanding any other law to the contrary.

(3) Each such loan agreement shall provide the terms and conditions under which the authority shall lend to the local government such portion or portions of the proceeds of the sale of the bonds and notes issued by the authority to finance the qualified zone academy project to which such loan agreement relates. Such conditions may include the pledging by the local government of state-shared taxes. The loan may cover cost of issuance.

(e) (1) Whenever, and as often as, a local government enters into a loan agreement with the authority under the provisions of this chapter, the governing body of such local government shall provide by resolution for the levy and collection of a tax upon all taxable property within the local government sufficient to pay when due all amounts payable under the loan agreement as and when such amounts become due and payable, including all fees and charges due the authority under such loan agreement and, furthermore, to pledge such tax and the full faith and credit of such local government to such payments; provided, however, a special school district shall provide for the collection of such a tax upon the levy of the tax by the State Legislature. Such tax shall be assessed, levied, collected and paid in like manner as other taxes of the local government. Such tax shall not be included within any statutory or other limitation of rate or amount for such local government, but shall be excluded therefrom and be in addition thereto and in excess thereof, notwithstanding and without regard to the prohibitions, restrictions or requirements of any other law, whether public or private. There shall be set aside from such tax levy into a special fund an amount sufficient for the payment of the annual amount due under any such loan agreement and the money in such funds shall be used exclusively for such purpose and shall not be used for any other purpose until such amount has been paid in full.

(2) The local government shall have the power and authority by resolution of the governing body of the local government to pledge or assign to the authority all or any portion of such taxes, in addition to its share of the state-shared taxes as the meaning is established by Section 4-31-102, as amended, that are not otherwise obligated. In the event any local government having entered into a loan agreement pledging state-shared taxes pursuant to this part shall fail to remit funds in accordance with the payments established by the authority, the Commissioner of Finance and Administration, after notice from the

authority of such event, shall, without further authorization, deduct from any state-shared taxes which are otherwise apportioned to the local government the amount required to make the local government current with respect to the unpaid amounts due the authority under the loan agreement and pay such amount to the authority. The authority shall deliver by certified mail to the local government a written notice of such deduction. Furthermore, such local government failing to remit funds in accordance with the payments established by the authority as aforementioned shall levy and assess such additional tax as provided in subsection (e)(1) above necessary to meet the obligation of the local government according to its loan agreement.

(3) The local government is authorized to set aside reserves and agree to the maintenance, regulation and disposition thereof; to agree to limitations on the purpose to which the proceeds of the sale of the authority notes and bonds may be applied and the manner in which the same shall be disbursed and applied and the pledging of such proceeds to secure the payment of authority notes or bonds or of any issue thereof; to recognize and give effect to such assignment upon receipt of any notice of assignment by the authority of the fees and charges payable to the authority under a loan agreement, and to pay to the assignee thereof the fees and charges then due or which may become due under the loan agreement which have been so assigned by the authority; and to agree to any other matters of like or different character, which in any way affect the security or protection of the fees and charges required to be made under the terms of an agreement with the authority.

SECTION 6. Tennessee Code Annotated, Section 49-3-1207(a)(1), is amended by adding the following language between the phrase "financing of projects," and "the payment of interest":

the financing of qualified zone academy projects,

SECTION 7. Tennessee Code Annotated, Section 49-3-1207, is amended by adding the following new subsections:

(k) For the enforcement of any loan agreement, the authority shall have all remedies provided to bondholders pursuant to Tennessee Code Annotated, Section 9-21-216 with respect to the local governments as defined by Section 1 of this act.

(l) With respect to all or any portion of any issue of bonds issued or anticipated to be issued hereunder, the authority may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements and options in respect thereto, from time to time and under such terms and conditions as the authority may determine, including, without limitation, provisions permitting the authority to pay to or receive from any person or entity for any loss of benefits under such agreement upon early termination thereof or default under such agreement.

(m) The authority may enter into an agreement to sell its bonds under this chapter providing for delivery of its bonds not more than five (5) years (or such greater period of time if approved by the Comptroller of the Treasury) from the date of execution of such agreement or in the case of refunding bonds the earlier of the first date on which the bonds being refunded can be optionally redeemed resulting in cost savings or be optionally redeemed at par.

SECTION 8 Tennessee Code Annotated, Section 49-3-1210, is amended by deleting subsection (a) in its entirety and redesignating accordingly; and further amend by adding the following language at the end of the last sentence:

, and adopting such rules and regulations with respect to such programs as shall be necessary or appropriate.

SECTION 9. Tennessee Code Annotated, Section 49-3-1204, is amended by adding the following as a new appropriately designated subsection:

() The members of the authority may designate a member of their respective staff to attend meetings of the authority or its committees and to exercise their right to vote in their absence. Such designations must be made in writing addressed to the secretary of the authority specifying the meeting for which the designation is effective and filed with the Secretary of State.

SECTION 10. Tennessee Code Annotated, Section 49-3-1205, is amended by adding the following as a new appropriately designated subsection:

() When entering into any contracts or agreements authorized under this Chapter, including contracts or agreements providing for liquidity and credit enhancement and reimbursement agreements relating thereto, interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, evidencing a transaction bearing a reasonable relationship to this State and also to another state or nation, agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this State or the laws of such other state or nation; provided, however, jurisdiction over the authority against which an action on such a contract or agreement is brought shall lie solely in a court located in Tennessee which would otherwise have jurisdiction of actions brought in contract against the authority.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 27, 1999


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 1999


DON SUNDQUIST, GOVERNOR